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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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IN REPLY REFER TO:
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EX PARTE OR LATE FILED

The Honorable Jim Nussle
U.S. House of Representatives
308 Cannon House Office Building
Washington, DC 20515-1502

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OCT 5 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Dear Representative Nussle:

This is in response to your inquiry on behalf of a constituent, Mr. Daren Kaepfel, Manager, Direct Broadcast Satellite Operations, at Allamake-Clayton Electric Cooperative. Mr. Kaepfel is concerned that DirecTV, operator of a direct broadcast satellite (DBS) facility, cannot obtain rights to Time Warner and Viacom programming, because such programming is subject to exclusive distribution rights of another DBS distributor, United States Satellite Broadcasting, Inc.

Mr. Kaepfel also expresses his support for the position of the NRTC concerning the Federal Communications Commission's interpretation of Section 19 of the Cable Television Consumer Protection and Competition Act of 1992. NRTC has requested that the Commission reexamine the legality of exclusive contracts between vertically integrated cable programmers and DBS providers in areas unserved by cable operators. NRTC has asked that the Commission determine that such contracts are prohibited.

NRTC's petition for reconsideration of the Commission's program access rulemaking proceeding is currently pending. As such, any discussion by Commission personnel concerning this issue outside the context of the rulemaking would be inappropriate. However, you may be assured that the Commission will take into account each of the arguments raised by NRTC and the other parties to the rulemaking concerning this issue to arrive at a reasoned decision on reconsideration.

I trust this information is responsive to your inquiry.

Sincerely,

Meredith J. Jones

Meredith J. Jones
Chief, Cable Services Bureau

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JIM NUSSLE

2ND DISTRICT - IOWA

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**Congress of the United States
House of Representatives
Washington, DC 20515-1502**

August 24, 1994

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Mr. Reed Hundt
Chairman
Federal Communications Commission
1919 M Street N.W.
Washington, D.C. 20554

Dear Mr. Hundt:

I have been contacted by distributors of direct broadcast satellite (DBS) television programming in Iowa, to voice their concerns about the implementation of the equal access to cable and broadcast programming at fair rates provisions in the Cable Television Consumer Protection and Competitiveness Act of 1992.

These distributors have previously submitted their comments to the Federal Communications Commission (FCC), under CS Docket 94-48. It is my understanding that while CS Docket 94-48 requires the FCC to submit a report to Congress in October of this year regarding the status of competition in the market of the delivery of video programming, the FCC does not plan to comment on the issue of equal access to programming as it is currently under reconsideration by the FCC.

As such, I would ask that you forward their comments to be included in the record of MM Docket 92-265, which is currently being examined for the reconsideration of the equal access to programming issue. I have enclosed a copy of their comments to the FCC on this issue.

Thank you for your consideration of this matter.

Sincerely,

Jim Nussle
Member of Congress

JN:akf

Enclosures



Allamakee-Clayton Electric Cooperative, Inc.

228 W. Greene Street, P.O. Box 715, Postville, IA 52162
(319) 864-7611

July 26, 1994

The Honorable Reed Hundt
Chairman
Federal Communications Commission
1919 M Street, NW, Room 814
Washington, DC 20554

Dear Chairman Hundt:

I am writing this letter in support of the comments of the National Rural Telecommunications Cooperative (NRTC) in the matter of implementation of Section 19 of the Cable Television Consumer Protection and Competition Act of 1992, Annual Assessment of the Status of Competition in the Market of the Delivery of Video Programming, CS Docket No. 94-48.

As a rural electric member of the NRTC and distributor of the DirecTv direct broadcast satellite (DBS) television service, we are directly involved in providing satellite service to rural consumers.

However, despite passage of the 1992 Cable Act, our ability to compete in our local market is being hampered by our lack of access to programming owned by Time Warner and Viacom.

The United States Satellite Broadcasting Company (USSB), a principle competitor, and Time Warner/Viacom have signed "exclusive" contracts for many channels. These include some of the most popular cable networks like HBO, Showtime, Cinemax, The Movie Channel, MTV, Nickelodeon, and others.

In contrast, none of the programming distribution contracts signed by DirecTv are exclusive in nature, and USSB is free to obtain distribution rights for any of the channels available on DirecTv.

Mr. Hundt, we agree with the NRTC that these exclusive programming contracts run counter to the intent of the 1992 Cable Act. We also believe that the Act prohibits any arrangement that prevents any distributor from gaining access to programming to serve non-cabled rural areas. Under the present circumstances, if one of our DirecTv subscribers also wishes to receive Time Warner/Viacom product, that

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Hon. Chairman Reed Hundt

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July 26, 1994

subscriber must purchase a second subscription to the USSB service. This imposes substantially higher costs on the consumer and hinders effective competition, and as a further consequence keeps the price of the Time Warner/Viacom channels unnecessarily high. It also increases consumer confusion at the retail level.

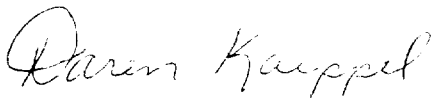
Not having access to the Time Warner/Viacom services has also adversely affected our ability to compete against other sources for television in our area. Primestar, which is a large cable owned medium powered DBS service, is able to proclaim "one stop shopping". This is due to the fact that they have rights to sell premium and basic services. By splitting programming access for a competitor, the large cable companies have been able to stifle competition for their Primestar service.

We strongly believe that the 1992 Cable Act flatly prohibits an exclusive arrangement that would prevent any distributor from gaining access to cable programming to serve rural areas. This is why we supported the Tauzin Amendment, embodied in Section 19 of the Act.

We ask the FCC to remedy these problems so that the effective competition requirement of Section 19 become a reality in rural America. In addition, we strongly urge you to banish the type of exclusionary arrangements represented by the USSB/Time Warner/Viacom deal.

Thank you for your consideration in this matter.

Sincerely,



Daren Kaepfel
Manager, DBS Operations

cc: The Hon. Charles Grassley
The Hon. Tom Harkin
The Hon. James Nussle
William F. Caton, Secretary
The Hon. James H. Quello
The Hon. Andrew C. Barrett
The Hon. Susan Ness
The Hon. Rachelle B. Chong

FAKED
7/28/94

10:35 A.M.



Preston Telephone Company

Box 167
Preston, Iowa 52069

Phone (319) 689-3811

July 28, 1994

The Honorable Reed Hundt
Chairman
Federal Communications Commission
1919 M Stree, NW, Rm.814
Washington, DC 20554

RE: Cable Competition Report
CS Docket No. 94-48

Dear Chairman Hundt,

This is a letter of support of the Comments of the National Rural Telecommunications Cooperative (NRTC) in the matter of Implementation of Section 19 of the 1992 Cable Act, Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, CS Docket 94-48.

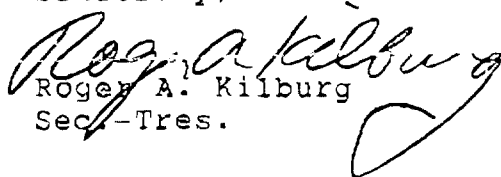
We are a rural company that has provided telephone service to our customers since 1906. As a member of NRTC we are attempting to distribute DIRECTV satellite television service to our customers as well. We service only rural customers, that is 100% of our business. As the players in the television market, and telephone as well, get bigger, rural customers that are not even considered by the big guys, increasingly are either caught in the middle, or left out completely, when policy and practice are applied.

I believe that the Cable Act of 1992 intended to correct that very basic inequity that rural America faces, but still we are restricted in our programming. This issue deals with programming owned by Time Warner and Viacom. These are some of the most popular channels (HBO, Showtime, Nickelodeon, and others), but we are refused access because of an exclusive contract signed between USSB, our main competitor, and Time Warner/Viacom. In contrast, none of the contracts signed by DIRECTV are exclusive, which we believe was the letter and intent of the 1992 Cable Act. Thus my rural customers must purchase multiple packages from multiple suppliers, at greater expense, to receive the same service. It also adversely affects my company's ability to provide comparable programming at comparable prices.

We need the FCC to remedy these problems so that effective competition becomes a reality in rural America. That is why we supported the Tauzin Amendment in Section 19 of the 1992 Cable Act, and strongly urge you to prohibit all types of exclusionary arrangements, such as those represented by the USSB/Time Warner/Viacom deal.

Thank you for your consideration in this matter.

Sincerely,


Roger A. Kilburg
Sec. - Tres.

cc.

Senator Charles Grassley
Senator Tom Harkin
Representative Jim Nussle
Commissioner James Quello
Commissioner Andrew C. Barrett
Commissioner Susan Ness
Commissioner Rachelle Chong



HAWKEYE TRI-COUNTY ELECTRIC COOPERATIVE

HIGHWAY 9 EAST — P.O. BOX 90, CRESCO, IOWA 52136

Telephone: (319) 547-3801

August 11, 1994

The Honorable Reed Hundt
Chairman
Federal Communications Commission
1919 M Street, NW, Rm. 814
Washington, DC 20554

Dear Chairman Hundt:

I am writing this letter in support of the Comments filed by the National Rural Telecommunications Cooperative (NRTC) in the matter of Implementation of Section 19 of the Cable Television Consumer Protection and Competition Act of 1992, Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, CS Docket No. 94-48.

As a rural electric member of NRTC, Hawkeye Tri-County is directly involved in the distribution of C-band satellite television programming to 221 rural consumers in Iowa.

Currently, Hawkeye is forced to pay significantly more for access to popular cable and broadcast programming than comparably sized cable companies in our area. The fact that we are forced to pay inflated rates for program access means we must in turn charge consumers more for our service, a fact which has already had a detrimental effect on our ability to compete in our local marketplace.

In addition, all of the consumers we serve live in remote areas not served by cable. Since these consumers have no other choice for multichannel television programming other than satellite, they are forced to pay higher rates for access to television than their counterparts with access to cable.

It was my impression that, in the 1992 Cable Act, Congress had mandated that all distributors (cable, satellite and otherwise) should be granted equal access to cable and broadcast programming services at non-discriminatory rates. If this is the case, why are we still paying more for many programming services than comparably sized cable companies?

Hawkeye Tri-County joins NRTC in calling on the FCC to monitor and combat the problems that I have mentioned above and to ensure that the intentions of Congress are being upheld with regard to the 1992 Cable Act.

Specifically, I feel that the FCC must prohibit abuses of the program access provisions of the 1992 Cable Act by rule and make it clear that damages will be awarded for program access violations.

I thank you for your attention on this matter.

Sincerely,

Steven M. Kettler
General Manager

SMK:sp

cc: Senator Charles Grassley
— Representative Jim Nussle